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18 NOTEWORLD, LLC d/b/a
19 NOTEWORLD SERVICING CENTER

20 UNITED STATES DISTRICT COURT
21 EASTERN DISTRICT OF WASHINGTON

22 DOYLE WHEELER and CARRI
23 WHEELER, husband and wife,
24 individually and on behalf of
similarly situated Washington
residents,

25 Plaintiffs,
v.
NOTEWORLD, LLC, d/b/a
NOTEWORLD SERVICING
CENTER, a Delaware limited
liability company; NATIONWIDE
SUPPORT SERVICES, INC., a
California corporation; FREEDOM
DEBT CENTER, a California
corporation; and JOHN AND JANE
DOES A-K,

Defendants.

} NO. CV-10-202-LRS

CLASS ACTION

DEFENDANTS NOTEWORLD
LLC'S AND NATIONWIDE
SUPPORT SERVICES, INC.'S
RESPONSE TO PLAINTIFFS'
PROPOSED INITIAL
DISCOVERY PLAN

DEFENDANTS' RESPONSE TO
PLAINTIFFS' PROPOSED INITIAL
DISCOVERY PLAN - 1

1 Defendants NoteWorld LLC (“NoteWorld”) and Nationwide Support
2 Services, Inc. (“Nationwide”) (“Defendants”) by and through their respective
3 counsel of record jointly respond to Plaintiffs Initial Discovery Plan (Doc. 31)
4 as follows.
5

6 INTRODUCTION

7 The parties all agree that a stay is appropriate given the certified
8 questions pending before the Washington Supreme Court in *Carlsen v. Global*
9 *Client Solutions*, E.D. Wash. No. CV-09-246-LRS and *Carlsen v. Freedom*
10 *Debt Relief*, E.D. Wash. No. CV-09-55-LRS. See Doc. 31, p. 1. The
11 Defendants, however, cannot agree to the broad scope of allowable discovery
12 sought by Plaintiffs during the proposed “stay.” Because the determination of
13 the *Carlsen* certified questions may shape the scope and form of discovery
14 needed to resolve this action, the “limited discovery” proposed by Plaintiffs is
15 unnecessary. Further, the vague description of discovery described by
16 Plaintiffs’ is likely to lead to Court administration and adjudication of
17 discovery disputes during the stay – disputes that ultimately may be rendered
18 moot by the Supreme Court’s determinations of the *Carlsen* questions.
19 Defendants ask that a stay of this action be entered and following the Supreme
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DEFENDANTS’ RESPONSE TO PLAINTIFFS’ PROPOSED INITIAL DISCOVERY PLAN - 2

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1 Court's determination in the *Carlsen* matters, this case proceed as provided for
2 in the Federal Rules of Civil Procedure.

3 **BACKGROUND**

4 Plaintiffs initially filed their action against Defendants in the Superior
5 Court for Spokane County. Some limited discovery was commenced by
6 Plaintiffs. Plaintiffs ultimately dismissed that action, without prejudice, and
7 then refiled in this Court.

8 Plaintiffs proposed a stipulation for stay on September 3, 2010,
9 however, they withdrew the offer when NoteWorld expressed an intention to
10 seek leave to file an amicus brief in one or both of the *Carlsen* matters. *See*
11 Declaration of Brooke Kuhl filed herewith.

12 **DISCUSSION**

13 There is no question that this Court has the discretion to stay the instant
14 action as part of its inherent authority "to control the disposition of the causes
15 on its docket with economy of time and effort for itself, for counsel, and for
16 litigants." *Landis v. North American Co.*, 299 U.S. 248, 254, 57 S.Ct. 163, 81
17 L.Ed. 153 (1936). And, here, the parties agree that some form of stay would
18 be proper.

19 DEFENDANTS' RESPONSE TO
20 PLAINTIFFS' PROPOSED INITIAL
21 DISCOVERY PLAN - 3

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1 The only dispute is what discovery, if any, should be permitted during
2 the stay. There is currently little guidance from the Washington Supreme
3 Court in interpreting claims under Washington's Debt Adjuster Statute and the
4 briefing and argument in the *Carlsen* matters will likely shape the
5 interpretation of statutory provisions common to this action. Given the
6 uncertainty in the legal landscape, allowing discovery to proceed in this action
7 before the disposition of the questions posed in the *Carlsen* matters could
8 result in unnecessary and/or irrelevant discovery.

9
10 The "limited discovery" sought by Plaintiffs is undefined and open to
11 various interpretations. This appears to be fertile ground for later disputes
12 between the parties and Plaintiffs have made no showing that any discovery
13 during the pendency of the stay is necessary. Under the Plaintiffs' proposal
14 the Court will undoubtedly be called upon to administer parts of the "limited
15 discovery" process and rule on discovery disputes. Given these facts,
16 Defendants request that the entire matter, including discovery, be stayed
17 pending the disposition of the certified questions in the *Carlsen* matters. Once
18 a final determination is reached in those matters, this matter would proceed in
19 the ordinary course with discovery following each parties' FRCP 26(a) initial
20 disclosures.
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DEFENDANTS' RESPONSE TO
PLAINTIFFS' PROPOSED INITIAL
DISCOVERY PLAN - 4

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CONCLUSION

2 For the foregoing reasons, NoteWorld and Nationwide respectfully
3 request that this Court stay these proceedings pending the outcome of the
4 Washington Supreme Court's consideration of the pending certified questions
5 from this Court's Case Nos. 09-055 and 09-246.

7 DATED this 12th day of November, 2010.
8

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26 DEFENDANTS' RESPONSE TO
PLAINTIFFS' PROPOSED INITIAL
DISCOVERY PLAN - 5

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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DEFENDANTS' RESPONSE TO
PLAINTIFFS' PROPOSED INITIAL
DISCOVERY PLAN - 6

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